

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MIKESHIA MORRISON, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

ESURANCE INSURANCE CO., a foreign
automobile insurance company,

Defendant.

Case No. 2:18-cv-01316-TSZ

**STIPULATED MOTION AND
(PROPOSED) ORDER TO VACATE
AND RESET SCHEDULING ORDER
DEADLINES**

**NOTE ON MOTION CALENDAR:
APRIL 17, 2020**

Pursuant to Federal Rule of Civil Procedure 16(b)(4) and LCR 16(b)(6), Plaintiff Mikeshia Morrison (“Plaintiff”) and Defendant Esurance Insurance Co. (“Defendant”) (collectively, “the Parties”) hereby stipulate to and jointly request that the trial date and all related dates in the Minute Order dated April 19, 2019 (Dkt. 36) be vacated and reset to future dates after the Western District of Washington courthouse reopens to the public. In support of this stipulated motion, the Parties state as follows:

1. On February 6, 2020, this Court issued an order denying Plaintiff’s motion for class certification. (Dkt. # 84.)

2. On February 20, 2020, Plaintiff filed a Petition for Permission to Appeal this order with the United States Court of Appeals for the Ninth Circuit. (Dkt. # 86.)

1 3. The Ninth Circuit did not rule on Plaintiff's Petition until March 27, 2020, at
2 which time it denied Plaintiff's Petition. (Dkt. # 86.)

3 4. In the interim, the COVID-19 pandemic, travel cancellations, and various states'
4 stay-at-home orders created additional challenges for this case, which was supposed to be
5 mediated by April 10, 2020, before moving into the final phases of dispositive motion practice
6 and trial when the pandemic hit.

7 5. The global pandemic associated with the spread of COVID-19 has created health
8 and safety concerns that are out of the parties' control, as this District explained in closing
9 courthouses and indefinitely continuing in-person hearings:

10 In response to the continued spread of COVID-19, President Trump has declared
11 a national emergency and issued guidelines directing at-risk individuals including
12 those 60 and older, to stay home and away from other people, and encouraging
13 everyone to work from home whenever possible, to avoid discretionary travel,
14 and to avoid social gatherings in groups of more than ten people. Governor Inslee
15 has also declared a state of emergency. The Centers for Disease Control and
16 Prevention ("CDC") and other health authorities have advised people to take
precautions to reduce the possibility of exposure to the COVID-19 virus and to
slow the spread of the disease. In particular, the CDC is recommending that
people attempt to keep physical distance between themselves and other people...
The CDC is recommending employers attempt to minimize exposure between
employees and the public and to consider the public health and safety when
scheduling group or public events.

17 Western District of Washington General Order No. 02-20 (Mar. 17, 2020). Earlier this week,
18 Chief Judge Martinez continued the restrictions from General Order 02-20 for another 30 days.
19 General Order 07-20 (Apr. 13, 2020).

20 6. The states in which the Parties and their counsel of record reside have enacted
21 stay-at-home orders. The stay-at-home order for Washington (and Minnesota, where one of
22 Esurance's attorneys is located) is currently in effect until May 4, 2020.

23 7. In light of the timing of Plaintiff's Petition for Permission to Appeal the class
24 certification order, which was not decided by the Ninth Circuit until March 27, and the
25 intervening COVID-19 crisis and stay-at-home orders, the Parties were not able to complete
26 mediation before the April 10, 2020 deadline. The Parties did, however, have informal

1 discussions between counsel regarding settlement. It is uncertain when the Parties will be able
2 to safely attend mediation, and when the courthouse will reopen for the pretrial conference and
3 trial. At a minimum, however, it appears unlikely that a mediation will be possible before many
4 of remaining pre-trial deadlines expire.

5 8. To put the Parties back in the same position they were in before the pandemic
6 disrupted the case schedule and the Court's calendar, the Parties respectfully request that the
7 Court: (1) vacate the current case schedule, including the trial date and all related dates; and (2)
8 order the Parties to jointly propose a new case schedule within five (5) days after the Western
9 District of Washington courthouse reopens.

10 9. This request is not made for purposes of delay, but rather to allow the Parties to
11 attempt to resolve this case before incurring the fees and costs associated with preparing for trial.

12 10. The Parties will be prejudiced if the Court does not grant this motion because
13 without such an amendment, both Parties will be prejudiced by having to proceed with pre-trial
14 preparation and trial without an opportunity to see if they can resolve this case through mediation.

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1 DATED this 17th day of April, 2020.

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ORDER

Based on the foregoing stipulation of the parties, IT IS HEREBY ORDERED that:

The Minute Order dated April 19, 2019, Dkt. 36, is amended as follows. The scheduling order deadlines relating to the LCR 39.1(c) settlement conference and mediation, trial date and pre-trial conference, and filing of dispositive motions, motions in limine, agreed pre-trial order, trial briefs, proposed voir dire questions, and proposed jury instructions are hereby vacated. Within five days after the Western District of Washington courthouse reopens, the Parties shall jointly submit new proposed dates for these scheduling order deadlines.

DATED this ____ day of _____, 2020.

The Honorable Thomas S. Zilly
United States District Judge

Presented by:

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